

**DEPARTMENT OF STATE REVENUE
LETTER OF FINDINGS NUMBER: 99-0597
STATE CORPORATE INCOME TAX
For 1993, 1994, 1995, and 1996**

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ISSUES

I. Adjusted Gross Income Tax– Business Income

Authority: IC § 6-3-2-2

Taxpayer requests the apportionment of its partnership's income for Indiana be used in computing taxpayer's Indiana tax liability.

II. Adjusted Gross Income Tax – Foreign Dividend Deduction

Authority: None Cited

Taxpayer protested the audit's determination that taxpayer had a 55% ownership interest in the partnership.

STATEMENT OF FACTS

Taxpayer is a limited partner in a partnership. Taxpayer is protesting adjustments related to the apportionment of the partnership income and taxpayer's percentage of ownership of the partnership at issue.

I. Adjusted Gross Income Tax– Partnership Income Allocation

DISCUSSION

The Indiana apportionment percentage of the Partnership income was approximately 15%. The audit multiplied the partner's distribution by the taxpayer's ownership percentage of the partnership. IC 6-3-2-2 (a) states in relevant part:

In the case of nonbusiness income described in subsection (g), only so much of such income as is allocated to this state under the provisions of subsections (h) through (k) shall be deemed to be derived from sources within Indiana.

In this situation, the Indiana apportionment percentage of the Partnership applies to the taxpayer's share of the partnership distribution.

FINDINGS

Taxpayer protest is sustained.

II. Adjusted Gross Income Tax – Percentage Ownership of Partnership

DISCUSSION

In calculating its Indiana tax liabilities, taxpayer argues that its ownership percentage of the limited partnership should not be based on taxpayer's Federal returns, specifically the K-1 report, rather the Department should rely on taxpayer's computations of its ownership interest based on a present value formula that demonstrate- according to taxpayer- that the 55% ownership interest on the Federal returns is in reality substantially less. Taxpayer cites no statutory authority for this adjustment, and while taxpayer's argument is novel, it is not sustainable.

FINDING

Taxpayer's protest is denied.